

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015100726

v.

CHULA VISTA ELEMENTARY SCHOOL
DISTRICT,

CHULA VISTA ELEMENTARY SCHOOL
DISTRICT,

OAH Case No. 2016010606

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE AND CONTINUE

On October 20, 2015, Student filed a Request for Due Process Hearing (complaint) naming Chula Vista Elementary School District as respondent in Office of Administrative Hearings case number 2015100726 (Student's Case). On January 5, 2016, OAH granted Student's motion to amend complaint.

On January 20, 2016, Chula Vista filed a Request for Due Process Hearing in OAH case number 2016010606, naming Student as respondent (District's Case).

On January 20, 2016, Chula Vista filed a motion to consolidate District's Case with Student's Case. In the motion to consolidate, Chula Vista requested District's Case be heard on the same schedule as Student's case. This request is considered a motion to continue District's Case to the dates previously scheduled in Student's case. Student did not file a response to the motion.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative

proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

DISCUSSION

Here, District's Case and Student's Case involve common questions of law and fact. District's Case raises an issue of whether Chula Vista's psychoeducational evaluation, speech and language evaluation, and occupational therapy evaluation, conducted in Spring 2015, are appropriate under the Individuals with Disabilities Education Act and California Education Code. In District's Case, Chula Vista seeks a determination that those special education evaluations were in all areas of suspected disability. Student's Case raises an issue of whether Chula Vista evaluated Student in all areas of suspected disability during Chula Vista's Spring 2015 evaluations, among other issues. More specifically, Student alleges Chula Vista's occupational therapy evaluation was not sufficient to determine Student's current progress, needs, and skills. These issues relate to the same time period, the same parties, and involve common questions of law and fact. Student has not opposed the motion. Additionally, consolidation furthers the interests of judicial economy because the matters will likely involve many of the same witnesses and evidence. Accordingly, consolidation is granted.

Good cause has been established to continue the consolidated matter to the dates currently set in Student's Case. The motion to continue is granted.

Upon consolidation, OAH must determine the case that will be considered the primary case for the purposes of calculating the applicable timelines. District's Case, OAH Case No. 2016010606, will be considered the primary case. Designating District's case as primary, however, will not disrupt the resolution period provided for under Student's case.

ORDER

1. Chula Vista's Motion to Consolidate is granted.
2. District's Case, OAH Case No. 2016010606 will be designated as the primary case for determining the applicable timelines.
3. Chula Vista's Motion to Continue is granted.

4. All dates currently set in District's Case, OAH Case No. 2016010606, will be vacated. The matter will proceed on the dates set forth in Student's Case, OAH Case No. 2015100726 as follows:

Prehearing Conference:	February 22, 2016, at 10:00 a.m.
Due Process Hearing:	March 1, 2016, at 9:30 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: January 29, 2016

/s/

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings